

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ARVIN PETTY,

10 Plaintiff,

Case No. C12-232-JCC-BAT

11 v.

12 BILL ELFO, *et al.*,

13 Defendants.

REPORT AND RECOMMENDATION

14 On February 10, 2012, plaintiff submitted to the Court for filing a civil rights complaint
15 under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma*
16 *pauperis*. (See Dkt. Nos. 4 and 6.) On February 14, 2012, before the Court had taken any action
17 with respect to plaintiff's complaint and application to proceed *in forma pauperis*, the Court
18 received from plaintiff a motion to withdraw his complaint and a request to return his previously
19 submitted documents. (See Dkt. No. 7.) Plaintiff's motion was treated as a notice of voluntary
20 dismissal and the case was closed and documents were returned.

21 On February 24, 2012, the Court received from plaintiff a petition for injunctive relief
22 which resulted in the case being reopened. (Dkt. No. 8.) Thereafter, on March 8, 2012, this
23 Court issued an Order granting plaintiff's application for leave to proceed *in forma pauperis* and

1 an Order declining to serve plaintiff's complaint and granting him leave to amend. (Dkt. Nos. 9
2 and 11.) These Orders were mailed to plaintiff at his address of record, the Whatcom County
3 Jail. On March 15, 2012, this mail was returned by the post office with a notation indicating that
4 plaintiff was no longer in jail. (Dkt. No. 13.) To date, plaintiff has not provided the Court with a
5 new address.

6 Because over sixty days have passed since mail directed to plaintiff at his address of
7 record was returned by the Post Office, and because plaintiff has not notified the Court of his
8 current address, this action should be **DISMISSED**, without prejudice, for failure to prosecute
9 pursuant to Local Rule CR 41(b)(2). A proposed order accompanies this Report and
10 Recommendation.

11 Any objections to this Recommendation must be filed and served upon all parties no later
12 than **June 28, 2012**. If no objections are filed, the matter will be ready for the Court's
13 consideration on **June 29, 2012**. Objections and responses shall not exceed 10 pages. The
14 failure to timely object may affect the right to appeal.

15 DATED this 7th day of June, 2012.

16
17 

18 _____
19 BRIAN A. TSUCHIDA
20 United States Magistrate Judge
21
22
23